No. 97-96 JUL 11 1997

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In The

Supreme Court of the United States

October Term, 1996

Julia McCain Lampkin Asam, Ph.D.,J.D.
Plaintiff-Appellant,

versus No. 96-6596, U.S. Court of Appeals, Eleventh Circuit

John A. Owens, individually & officially as President, Alabama State Bar, and Alabama State Bar, James Anthony McLain, individually and officially as General Counsel, Alabama State Bar, and Alabama State Bar, Wanda D. Devereaux, individually and officially as Chairman of Disciplinary Board, Panel II, Alabama State Bar, and Disciplinary Board, Panel II, Hon. P. Hooper, Chief Justice, Supreme Court of Alabama, and Supreme Court of Alabama, and Hon. Richard Jones, retired justice; Supreme Court of Alabama, Jeff Sessions, Attorney General,State of Alabama and State of Alabama and Defendants 1-30.
Defendants-Appellees

WRIT OF CERTIORARI FROM
U.S. COURT OF APPEALS, ELEVENTH CIRCUIT

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60 pp

QUESTIONS PRESENTED

I. Whether the Hon. Judge Edwin Nelson, made gross judicial error by failing to rule according to facts and law elements of summary judgment for all defendants to cover-up the judicial scam that the highest court of the State of Alabama, the Supreme Court of Alabama, had mutilated and altered the official record of 1940912, Asam v. Alabama State Bar, by illegally removing in an elaborate cover-up the timely filed Answer by Dr. Asam, [26-page answer to 5 complaints by Norris] known as R-1 [see p. 1421 of Supreme Court of Alabama record 1940912] and this unlawful taking of the Answer so that the Justice "deemed admitted" the alleged charges against Asam in her wrongful disbarment is clearly a violation of Dr. Asam's constitutional rights of both substantive and procedural due process, liberty rights and property rights i.e. right to practice law as lawyer without wrongful disbarment by highest state court, the Supreme Court of Alabama wrongfully affirming the disbarment of Dr. Asam without proper and fair review since inside job of the Supreme Court of Alabama removing from their own official files, the Answer of Asam [26-pages] and then, the Justice Jones claiming he saw no answer in record and this is reason to deem admitted

the alleged charges against Asam, and Jones cited the law on p. 13 of his Opinion as well as stating on this same page he read the record and no answer. In reality, the Answer was timely filed [see duplicate Answer - 26 pages attached to Amendment to Complaint Vol. I #2 and p. 1421 Supreme Court of Alabama record and was also part of the official record of this instant case. The taking of Dr. Asam's rights to practice law by an illegal act by the state is a taking by the state of her property rights under the 5th and 14th amendments to the U.S. Constitution. This taking of Dr. Asam's constitutional rights of due process, [both subsantive and procedural] liberty rights and property rights under the 5th and 14th amendments to the U.S. Constitution triggers the civil rights claims under 42 U.S.C. § 1983, i.e. did the Hon. Judge Nelson deliberately ignore the criminal act of the Supreme Court of Alabama taking an official record, 26-page answer to alter the opinion to pretend Dr. Asam was mentally incompetent so that Dr. Asam was wrongfully disbarred since Judge Nelson **failed to rule according to law** in granting the motion for summary judgment? secondly, since new evidence and new party, Supreme Court of Alabama whether res judicata? and the answer is No res judicata.

II. Whether Hon. Judge Nelson had jurisdiction to enjoin lawsuits on wrongful disbarment when no res judicata had been shown as a matter of law since [Law was in Appellant Brief] at that time, no lawsuits had been completed and there is no res judicata as to the instant case particularly since the Supreme Court of Alabama was sued for the first time in the instant lawsuit. Clearly, there was no res judicata for the stealing and altering by the Supreme Court of Alabama since inside job because confidential court file involving Alabama State Bar Disciplinary Board in 1940912. Asam v. Alabama State Bar.Supreme Court of Alabama was getting rid of evidence present in Asam's 26-page Answer in 1940912 so the Justice Jones could deem admitted the alleged charges against Asam by the Alabama State Bar to affirm the wrongful disbarment by Alabama State Bar who was pretending Dr. Asam was mentally incompetent as reason to disbar her to put her out of business and so no one would pay attention if Dr. Asam should speak the truth about the judicial scam in Alabama and the judicial system in Alabama is in need of great reform to put integrity back into the judicial system of Alabama instead of being run by a small group of judges and lawyers and special interest

groups in reckless disregard for justice for all people, i.e. whether Judge Nelson, federal judge, is sweeping the phantom ruling of Supreme Court of Alabama evaporating files under the rug.

III. Whether the Hon. Judge Nelson made reversible gross judicial error by granting summary judgment for defendants Supreme Court of Alabama who through the agents, Justices Hooper and Jones have violated the substantive and procedural due process constitutional rights of Dr. Asam when the highest court of the state, illegally removed the pertinent document, the Answer [26 pages] of Dr. Asam, so that Justice Jones could cover-up for the image of the Alabama State Bar by stating that he [Jones] saw no answer in record and "deemed admitted" [alteration of official confidential record] by citing law the alleged charges against Asam so that the Supreme Court of Alabama could affirm [Justice Jones died soon thereafter] the wrongrul disbarment of Dr. Asam since the Answer -- 26 pages clearly denied all formal charges by Robert Norris, former general counsel, [now resigned] for the Alabama State Bar and these violations of substantive and procedural due process consitutional rights of Dr. Asam, under the

5th and 14th amendments to the U.S. Consitution triggered the civil rights claims under the 42 U.S.C. § 1983, making Judge Nelson's final judgment reversible gross judicial error. i.e. Whether **Judge Nelson erroneously granting the summary judgment for Supreme Court of Alabama and other defendants was a cover-up** by circumventing law by not ruling as a matter of law when illegal act of the highest court of state, Supreme Court of Alabama, was mutilating the record to justify an affirming of wrongful disbarment? Certainly this stealing of the 26-page Answer by an inside job in the Supreme Court of Alabama to justify to affirm a wrongful disbarment is a clear example of MALIGNANT JUSTICE IN THE STATE OF ALABAMA.

IV. Whether there was a pattern of activity of state court's and/or arm of Supreme Court of Alabama, Alabama State Bar, were showing a pattern of activity of removing and/or deleting official files of the record of 1940912, Asam v. Alabama State Bar, by Supreme Court of Alabama removing R-1, the Answer [26 pages],and Alabama State Bar, deleting attachments to R-9, that never reached the Supreme Court of Alabama, and these attachments to R-9 and also affidavit by Dr. Asam, were exhibits of

the original grievance complaints from lawyers who were opposing lawyers and/or lawyers supporting opponents of Asam in judgship campaign: [Asam v. Harwood, and Asam v. England],
and/or judge who was opponent, which Norris was ordered to produce at the hearing of the Disciplinary Board since Norris had failed to produce any of the original complaints before Dr. Asam had to go to the hearing Feb. 23,24, 1995. [See letter dated June 30, 1994, by Norris refusing to give Asam said original complaints. Asam thinks Norris was hiding these original complaints and is the reason the said complaints disappeared again and did not show up in R-9 as attachments and had been deleted because the 5 formal complaints by Norris showed no relationship with the original complaints since Norris was pretending Dr. Asam was mentally incompetent and because of incompetence this was misconduct to disbar which is not substantiated by any medical expert since Norris failed to have any M.D. psychiatrist at the hearing of the Disciplinary Board, and Norris failed to notice Dr. Asam of the **"surprise Sanity hearing"** and Norris failed to have an M.D. psychiatrist to declare Asam mentally incompetent, which Hon. Judge Nelson listed in his first sentence of his Opinion, and

Hon. Judge Nelson failed to have a hearing on any motions so that he [Nelson] could see himself that Dr. Asam was not mentally incompetent.

V. Whether Hon. Judge Nelson failed to rule according to law in granting summary judgment since Dr. Asam's civil rights under 42 U.S.C. § 1983 were violated since her constitutional rights to fair review were violated by the Supreme Court of Alabama illegally removing records -- the Answer [26- pages] so that the Justice Jones could say he saw no answer in record and deem admitted the alleged charges against Dr. Asam is not fair appellate review.

VI. Whether Hon. Judge Nelson made gross judicial error when he was on notice of disputed facts and Judge Nelson granted summary judgment but failed to grant summary judgment according to the elements of summary judgment as a matter of law. Certainly, what happened to the Answer [26- pages] at the Supreme Court of Alabama was disputed fact and the jury should have determined the facts, especially since the attorney general's office, Jeffery Long was more interested in Asam showing cause than investigating how files disappeared from the official court record of the Supreme Court of Alabama.

VII. Whether the Hon. Judge Nelson made judicial error and reversible error by not allowing discovery in his failure to grant Motion to Compel when summary judgment motion before the Court?

VIII. Whether the Hon. Judge Nelson made gross judicial error and gross reversible error in attempting to enjoin and to restrain Dr. Asam in any filing of other lawsuits especially since the issue of wrongful disbarment is a state issue and it is a question if Judge Nelson had jurisdiction in state issues not before his court and any federal issues that may be before Department of Labor and/or the U.S. Congress investigating committee. The Asam v. Ryan et al. case is not an Alabama State Bar case and was 95-7060 in the U.S. Court of Appeals, 11th Circuit?

IX. Whether at the time of ruling by Judge Nelson was there any privity to any lawsuit filed since at that time there were no rulings on the merits of any case related to Alabama State Bar? Also, clearly no privity to the parties Chief Justice Hooper and Justice Richard Jones and the Supreme Court of Alabama since never before previously sued.

X. Whether any justices or judges and/or lawyers are immuned since Dr. Asam's constitutional rights were violated as stated

in Complaint and Amendment to Complaint and as stated above i.e. whether an intervening criminal act by the Supreme Court of Alabama stealing from their own record to alter the decision of the court is an exception to any type of immunity including sovereign immunity because of the violation of the civil rights and constitutional rights of due process, liberty rights and property rights under 5th and 14th amendments to U.S. Constitution as well as violation of the civil rights under 42 U.S.C. § 1983.

XI. Whether Hon. Judge Nelson in U.S. District Court, Northern District of Alabama is circumventing the law in wrongfully granting summary judgment as cover-up for the wrongdoings of State of Alabama, Judicial department, Supreme Court of Alabama, in altering illegally official confidential record of the highest court of the state in that the Answer [26-pages] was evaporated out of confidential official records of case 1940912, Asam v. Alabama State Bar for ANOTHER COVER-UP THAT THE ALABAMA STATE BAR HAD WRONGFULLY DISBARRED DR. ASAM AS MENTALLY INCOMPETENT. The Answer [26-pages] would have shown that Asam was able to defend all charges that Norris was fabricating. Clearly, the Supreme Court of Alabama had the motive of removing the Answer [26-pages] of Asam so that Justice Jones made the statement that he [Jones] had read the record and no

Answer [when in reality answer was timely filed but stolen in inside job by the Supreme Court of Alabama] and Jones then "deemed admitted", citing law [p. 13 of Jones' opinion] so that the Supreme Court of Alabama could rule "affirmed" as to the outrageous ruling of the Disciplinary Board of the Alabama State Bar ruling that Dr. Asam would have to have a medical expert to declare her mentally competent before she could be reinstated, and in the case of disbarment this is 5 years and Asam would be 69 years old, an age discrimination by the Alabama State Bar who had no substantial evidence that Dr. Asam was mentally incompetent, and further is a violation of the American for Disabilities Act to pretend Asam was mentally incompetent to take her license to practice law as well as

the Alabama State Bar and agents, Robert Norris and Wanda Devereaux violating the constitutional rights of Dr. Asam as stated above and in the Facts clearly violating the civil rights of Dr. Asam under 42 U.S.C. § 1983 which Judge Nelson has ignored and failed to have a hearing so he could see himself that Dr. Asam was not mentally incompetent.

LIST OF PARTIES

The caption of the case contains the names of all parties.

STATEMENT REGARDING ORAL ARGUMENT AND REQUEST TO WRITE MERITS' BRIEF

Because of complexities, irregularities and numerous judicial errors made in the lower court, oral argument is requested so that the Honorable Justices can understand and ask questions.

The Appellant/Petitioner respectfully requests to write the Merits' Brief.

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I. U.S. Court of Appeals, 11th Circuit violated the due process, both procedurally and substantively, and liberty rights under the 5th and 14th Amendments to the U.S. Constitution thus triggering 42 U.S.C. § 1983 civil rights claims when affirming the summary judgment below when Judge Nelson failed to rule according to law.

II. U.S. Court of Appeals, 11th Circuit violated Asam's due process rights by affirming the summary judgment by Judge Nelson when Norris violated the equal protection under the law because of gender discrimination.

III. Dr. Asam's civil rights were violated as shown above by Norris, Alabama State Bar, and Supreme Court of Alabama and U.S. District Court, Northern District of Alabama, Judges Nelson and Hancock, violating Dr. Asam's constitutional rights.

IV. There is no immunity for Norris and the Alabama State Bar, Supreme Court of Alabama, Justices Hooper and Jones and all other defendants/appellees listed because of constiutional violations.

V. No fair and impartial trial in Alabama State Bar because the Alabama State bar is arm of Supreme Court of Alabama and this connection should be severed.

VI. Malignant Justice clearly shown by the Supreme Court of Alabama by Justices Hooper and Jones for the disapearing of the Answer [26-pages] to justify the deeming admitted alleged charges against Dr. Asam so that Supreme Court of Alabama could affirm in Asam v. Alabama State Bar, and then, Judge Nelson covering-up the true issues in the instant case by ignoring the fact that the evidence had been surreptitiously removed by an inside job in the Supreme Court of Alabama motivated by political inuendos.

APPENDIX

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Defendants-Appellees

WRIT OF CERTIORARI FROM U.S. COURT OF APPEALS, ELEVENTH CIRCUIT

OPINIONS BELOW

The Petitioner incorporates all statements which are stated in the Appendix as Opinions Below into this Writ of Certiorari.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C Section 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The United States Constitution provides in pertinent part:

AMENDMENT V

No person shall... be deprived of life, liberty, or property, without due process of law;...

AMENDMENT XIV. SECTION I

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

FEDERAL STATUTES

42 U.S.C. Section 1983

"Every person who, under color of any statute, ordinance, regulation, custom, usage, or any State or Territory, subjects, or causes to be subjected, any citizen of

the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities acccured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

28 U.S.C. Section 1343(3)

"3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usuage, or any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;

28 U.S.C. Section 2108

"The Supreme Court of any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree or order of court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances."

STATEMENT OF CASE

I. STATEMENT OF FACTS

The instant case is based on actual facts, not just alleged facts, in particular when the Answer consisted of 26 pages with exhibits attached [R-1 on p. 1421 index to record, "Asam's answer to summons and five complaints and R-2 was "Collective packet of Asam exhibits in response to charges" Hon. Judge Nelson ignored the actual facts in the instant case whereby someone illegally removed [inside job in the Supreme Court of Alabama] Asam's Answer [26-pages] from the official confidential record of the Supreme Court of Alabama in case 1940912, Asam v. Alabama State Bar, when Hon. Justice R. Jones was STATING NO ANSWER, and citing law because no answer that the alleged charges by the Alabama State Bar were "deemed admitted.".

Justice Jones states on p. 13, of his Opinion in 1940912,

"The record reveals that Asam did not file an answer during the 28-day period following June 26, 1994, and [Emphasis is added - from p. 13 Opinion by Jones] and was impeached with duplicate copy sent to Asam from record as R-1, and was filed in court for Judge Nelson to see, and the Answer was entitled "Answer to Summons and five (5) complaints" and was

filed July 20, 1994, and filed stamped by Alabama State Bar, and the answer was 26 pages with exhibits attached and the said Answer [26 pages] was laundered out of the official Supreme Court of Alabama record to justify alteration of the facts so that Dr. Asam's case Asam v. Alabama State Bar could be affirmed that Dr. Asam was mentally incompetent when Dr. Asam has never been mentally incompetent and the Supreme Court of Alabama was mutilating the record to pretend Dr. Asam was mentally incompetent motivated by political discrimination against a woman running as a circuit judge candidate [See 95-1895 that was filed in this Honorable Supreme Court of the United States]. There are 6 Supreme Court of the United States cases filed; three were denied Certiorari, and three cases are still pending.

Certainly, it is per se substantive due process violation to unlawfully remove official records from the highest court of the state, the Supreme Court of Alabama since confidential files is an inside removal by Court, as well as violation of Dr. Asam's procedural due process under the 5th and 14th amendments to the U.S. Constitution and such removal of documents were prompted by political,

personal or discriminatory motives of lawyers and the general counsel, Robert Norris,
[now resigned] of the Alabama State Bar, proven by one of his own letters he was working with lawyers to put Dr. Asam out of business as a lawyer. See Midnight Sessions, Ltd. v. City of Philadelphia, 945 F. 2d 667, 683 (3rd Cir.) cert denied, 112 S. Ct. 1668 (1991); Bello v. Walker,
840 F. 2d 112 (3rd Cir.), cert denied, 488 U.S. 851 cert. denied, 488 U.S. 868 (1988); Marks v. City of Chesapeake, 883 F. 2d 308, 311 (4th Cir. 1989).

Violation of the State of Alabama through the Judicial department, the Supreme Court of Alabama and its agents, Honorable Justices and the Alabama State Bar agents especially Robert W. Norris, General Counsel, now resigned and Anthony McLain who failed to check out the truth of the fabrication by Robert Norris, and Wanda Devereaux, Chairman of Disciplinary Board of the Alabama State Bar violated constitutional rights of Dr. Asam to have substantive due process and procedural due process triggers the civil rights violations under 42 U.S.C. § 1983. The Alabama State Bar cannot pretend Dr. Asam is mentally incompetent and mentally

incapacitated and "crazy" without having medical expert M.D. to declare Dr. Asam mentally incompetent. The Alabama State Bar failed to have any M.D. medical expert to declare Dr. Asam mentally incompetent and the Alabama State Bar illegally took the property right of Dr. Asam to practice law by illegally disbarring Dr. Asam as mentally incompetent since she was the first woman to run as a circuit judge candidate in Tuscaloosa County in 1992, and the male lawyers through an organization known as the "machine" illegally had Dr. Asam assasinated as a lawyer by trumping up lies that Dr. Asam was mentally incompetent, and using two political cases Asam v. Harwood and Asam v. Vreeland to justify the political removal of Dr. Asam as a lawyer. In 1992, Asam was the Democratic nominee and Bernard Harwood was the Republican nominee. Vreeland wrote a libelous letter and he mailed his letter to thousands of voters and Asam had a constitutional right to sue both Harwood and Vreeland, and the Alabama State Bar had no right to interfere.

Mr. Robert Norris, former general counsel, of the Alabama State Bar was not a M.D. Psychiatrist, and Norris had no medical expert to declare that Asam was

mentally incompetent; therefore, Norris was practicing medicine without a license to disbar Asam as mentally incompetent when Norris was only a retired general running an illegal court martial like hearing supposed to be a Disciplinary Board hearing of the Alabama State Bar.

It was discovered General Counsel of the Alabama State Bar, Robert Norris was actively himself involved in illegally disbarring Dr. Asam prompted by political motivation since Norris used two political cases as a basis for fabricating trumped-up charges of alleged professional misconduct based on no probable cause when Norris wrote his five (5) formal complaints stating that Dr. Asam was incompetent and because she is incompetent this is misconduct for disbarment. In 1995, Norris conducted a trial Feb. 23,24, as prosecutor for the Disciplinary Board where he had Dr. Asam guilty before the trial as mentally incompetent and Norris gave no notice of surprise sanity hearing, provided no appointed attorney for Asam, and failed to have an expert witness as a M.D. Psychiatrist.

The instant case is prompted by political motivation of evil-minded male lawyers who were either opposing lawyers and/or lawyers representing or supporting political opponents of Dr. Asam in her judgship

campaigns including the fact Dr. Asam was the first woman to run as a circuit judge candidate in 1992 in Tuscaloosa County, and again in 1994.

The Answer states, "The respondent, lawyer, Julia McCain Lampkin Asam, Ph.D., J.D., denies each alleged violation of Code of Professional Responsibility as stated in each of the five (5) complaints trumped-up by the Alabama State Bar based on no probable cause and false statements from two political cases [Asam v. Harwood, and Asam v. Vreeland], opposing attorneys including Mr. David Ellis ..."] filed Alabama State Bar, July 20, 1994, and R-1 Disciplinary Hearing [in record Supreme Court of Alabama but someone(inside)Supreme Court of Alabama removed the answer ... before Justice Jones wrote his opinion and/or the Hon. Justice Richard Jones purposely ignored the record, and made the following statement citing Rule 12(e)(1) which states,

"If the respondent fails to answer, the charges shall be deemed admitted..." and this illegal removal and mutilation of the record by the Supreme Court of Alabama is MALIGNANT JUSTICE and an example of "cover-up", fraud, deceit, and misrepresentation by the Supreme Court of Alabama to take the right of Dr. Asam to practice law in Alabama to justify an affirming of the

case, Asam v. Alabama State Bar to pretend that Dr. Asam was mentally incompetent. The Bottom Line is the Quoting that the charges should be "deemed admitted" was not only gross judicial error but is GROSS VIOLATION OF THE CONSTITUTIONAL RIGHTS AS STATED ABOVE OF DR. ASAM which triggers in the violation of Dr. Asam's civil rights under the 5th and 14th amendments to the U.S. Constitution.

For the Supreme Court of Alabama to launder out a 26 page answer with cover sheet and an affidavit is clearly UnAMERICAN AND MALIGNANT JUSTICE.

To have the Supreme Court of Alabama to pretend an Answer was not filed when it was is a clear example of the tort of outrage, and Dr. Asam should be reinstated as lawyer and her full rights restored because the Alabama State Bar has also pretended that Dr. Asam was mentally incompetent and is seen in the final ruling which was attached to the original complaint, and there was no doubt about it that the prosecutor, former general counsel, Robert Norris and Wanda Devereaux were conducting a "surprise SANITY HEARING" without notice to Dr. Asam and without appointing an attorney, and without having a M.D. expert witness -- taking of a constitutional right to practice law by pretending on the level of a state agency is acting of agents of the

state under color of state law and justifies the 42 U.S.C. § 1983 claim claims.

Deceit, fraud, and misrepresentation by the Supreme Court of Alabama evaporating records [Asam's Answer] and pretending no answer to deem admitted is criminal and especially the highest state court pretending Dr. Asam was mentally incompetent by affirming the Alabama State Bar wrongful disbarment, clearly justifies the damages of $100,000,000.00 which Dr. Asam would use to build a Cancer Institute since Dr. Asam is also a cancer scientist with over 20 years experience and has written books on cancer and has published in reputable medical journals on cancer and the State of Alabama through the Alabama State Bar should have to pay a pension to Dr. Asam not only because of age discrimination, but also gender discrimination because all male-lawyers instigating Dr. Asam to be disbarred including Robert W. Norris, himself, which was not found out until the Disciplinary hearing [See Asam v. Norris]. The MALIGNANT AND TWISTED JUSTICE SHOWN BY THE HIGHEST STATE COURT IN ALABAMA, SUPREME COURT OF ALABAMA mutilating own official record should not be tolerated, and the clerks writing the transparent opinion for the judges of the U.S. Court of Appeals, Eleventh Circuit by not addressing the true

issue of the Supreme Court of Alabama stealing their own records to justify a false opinion of affirming clearly shows how politics has influeced the appellate courts including the U.S. Court of Appeals, Eleventh Circuit, not to rule according to law by ignoring the true actual facts of the instant case to cover-up for the stealing of the record by a state court, the Supreme Court of Alabama, is certainly MALIGNANT JUSTICE. The instant case should be either settled or remanded to the U.S. District Court, Northern District of Alabama for a jury trial.

Dr. Asam is keeping on keeping on since she believes God is helping her to expose the MALIGNANT AND TWISTED JUSTICE IN BOTH THE STATE AND FEDERAL JUDICIAL SYSTEMS. The instant case will end up in the U.S. Congress with her other cases about the judicial system unless the instant case can have a fair appellate review in the Honorable Supreme Court of the United States.

The Supreme Court of Alabama is supposed to uphold the law and not break the law as happened with this highest court in this instant lawsuit by the Supreme Court of Alabama removing official records [1940912] Asam v. Alabama State Bar to make it appear that the case should be affirmed as to wrongful disbarment of Dr. Asam. In the

instant case, the point is any motion to dismiss is gross judicial error as to any immunity or 11th amendment immunity since the Supreme Court of Alabama has illegally removed the timely filed answer [26 pages] by Asam, to justify according to Justice Jones that the alleged charges against Dr. Asam by the Alabama State Bar are "deemed admitted" because Jones claims no Answer in record. What happened to the Answer [26 pages] timely filed by Asam denying all charges and presenting exhibits to show that Norris was writing fraudulent charges against Dr. Asam? Who took the Answer out of the file of 1940912 when a confidential file? The Attorney General Sessions' office failed to investigate.

There is no immunity for violation of the constitutional rights as stated in the facts of this instant case. The standard of review is summary judgment and Hon. Judge Nelson failed to rule according to the elements of summary judgment as to facts and law. See Booth v. United Services Auto Association, 469 So. 2d 1281 (Ala. 1985), which states,

"To grant summary judgment, trial court must find that there is no genuine issue of material fact and that movant is entitled to judgment as matter of law. Rules Civ. Proc. Rule 56."

Judge Nelson failed to rule according to the facts in case and failed to rule according to law.

The Answer [26 pages] was originally filed in the Alabama State Bar by Joseph Asam who also had a copy stamped July 20, 1994, which was a timely filing. On Feb. 23, 1995, when the Disciplinary Board had a hearing, the Answer was listed as R-1 and was present for the record. When Justice Jones wrote his opinion on p. 13, for the Supreme Court of Alabama Jones claimed he read the record and there was no Answer [26 pages]; then, Justice Jones abused his judicial power and "deemed admitted" the alleged charges against Dr. Asam so as to affirm, when Justice Jones had constructive notice of the Answer which was listed in the index of the record on p. 1421 as R-1 in the Supreme Court of Alabama Court record of the Asam v. Alabama State Bar [1940912]. After Justice Jones ruled erroneously claiming no answer, Joseph Asam, Jr. went to the Supreme Court of Alabama in person and obtained a copy of the p. 1421 of the index of the official record which clearly showed that the said Answer was R-1.

II. PROCEEDINGS IN THE COURTS BELOW

The Asam v. Owens et al Complaint was filed March 5, 1996, in the U.S. District Court, Northern District of Alabama. The amendment to the complaint was filed on March 18, 1996, in the U.S. District Court, Northern District of Alabama.

On May 14, 1996, an Order granting summary judgment was entered together with a Memorandum of Opinion.

On May 28, 1996, the Motion to Alter, Amend or Vacate Judgment was denied.

On April 21, 1997, the U.S. Court of Appeals, Eleventh Circuit affirmed.

REASONS FOR GRANTING WRIT OF CERTIORARI

ALL QUESTIONS PRESENTED ARE DISCUSSED TOGETHER IN THIS SECTION AND THE FACTS PRESENTED ABOVE ARE INCORPORATED INTO THIS REASONS FOR GRANTING CERTIORARI AS IF RE-WRITTEN AND ANY PREVIOUS LAW CITED ABOVE IS INCORPORATED INTO THIS SECTION.

The Honorable Judge Nelson has made reversible gross judicial error in attempting to cover-up the violations of the judicial department of the Supreme Court of Alabama when both judicial forums have shown pattern of cover-up by circumventing the law by "laundering out" files [26 pages of the Answer R-1 by Dr. Asam] and the Honorable Justice Jones stated he had read the record and there was no answer and "deemed admitted" the alleged charges which were fraudulently written by Mr. Robert W. Norris, and the Alabama State Bar "laundered out" the original grievances complaints as stated in R-9, an affidavit by Dr. Asam clearly showed that there was no relationship to the original grievance complaints and the 5 formal charges written

by Mr. Norris pretending that Asam was mentally incompetent and because she is mentally incompetent this is misconduct for disbarment, and these violations included violations of substantive due process as well as procedural due process under the 5th and 14th amendments to the U.S. Constitution.

There is no res judicata or collateral estoppel because the Supreme Court of Alabama had never been a party before and the stealing by an inside job of Asam's Answer and then Justice Jones deeming admitted alleged charges against Asam by Alabama State Bar was not known until Feb. 23,1996, when Justice Jones wrote his opinion [see p. 13 of opinion]. Altering of a court record by the highest court of a state, Supreme Court of Alabama, cannot be dismissed as res judicata because at the time of Judge Nelson's ruling no other lawsuit was completed.

See Tye v. City of Cincinnati, 794 F. Supp. 824, 830-831, (S.D. Ohio 1192, which states,

"Collateral estoppel, or issue preclusion, bars relitigation of an issue of act or law that was actually litgated and determined by a valid and final judgment. Charles Alan Wright, The Law of Federal Courts : 100A, at 682 (4 ed. 1983)..."

See Subryan v. Regents of Univ. of Colo.

813 F. Supp. 753, at 757-758, (D. Colo. 1993), held that courts would "apply §26(1)(a) of the Restatement in these circumstances to hold that Subryan's § 1983 claims is not barred by res judicata."

See Walker v. Kerr-McGee Chemical Corp. 793 F. Supp. 688, 693-694 (N.D. Miss. 1992) whhich states,

"Res judicata and collateral estoppel both deal with question of whether the adjudication of certain matters is precluded by a prior adjudication. Also quoting from the Walker case, supra, "Collateral estoppel is a derivative of res judicata with a more narrow focus. While res judicata encompasses questions which might have been litigated, collateral estoppel applies only to questions actually litigated in prior suit. Metro Charities, 748 F. Supp at 1160; see Johnson v. Bagby 252 Miss. 125, 171 So. 2d 327 (Miss. 1965).

See Kremer v. Chemical Construction Corp. 456 U.S. 461, 466 n. 6, 102 S Ct 1883, 1889-90 n. 72 L. Ed. 2d 262 (1982). "Under the doctrine of res judicata, parties and their privies are precluded from relitigating claims that were or could have been raised in a prior action and have since reached a final judgment on the merits. Metro Charities, 748 F. Supp. at 1159.The U.S. Court of Appeals, 11th Circuit, failed to read the

facts in case, and did not read the above law on res judicata, especially since the Subryan case supra is an exception when § 1983 claim as in the instant case there is § 1983 claim.

THERE IS NO IMMUNITY FOR ANY DEFENDANT IN THE INSTANT CASE I.E. NO ABSOLUTE IMMUNITY, NO QUALIFIED IMMUNITY AND NO SOVEREIGN IMMUNITY BECAUSE ALL DEFENDANTS HAVE VIOLATED THE CONSTITUTIONAL RIGHTS OF DR. ASAM AS STATED ABOVE IN THE FACTS.

See Lesiter v. Alabama A&M University, 28 F. 3d 1146 (11th Cir. 1994), which held that constitutional violations of due process is an exception to immunity alleged by state officials.

See DeStafney v. University of Alabama, 413 So. 2d 391 (Ala. 1981), at 395 which states,

"Section 14 does not necessarily immunize State officials or agents from individual civil liability."

See Paxman v. Campbell, 612 F. 2d 848 (4th Cir. 1989) which held that there is no immunity for an official "if he knew or reasonably should have known that the action he took within his sphere of official responsibility would violate the constitutional rights of the (person) affected..." See Meeker v. Addison, 586 F. Supp. 216 (1983) which held an individual

officer may be held liable for damages for conduct that has deprived a person of his constitutional rights.

There is no qualified immunity for any defendant in the instant case because Dr. Asam had a right to due process in the quasi judicial hearing by the Alabama State Bar, Disciplinary board and Dr. Asam had a right to due process in the Supreme Court of Alabama without stealing of their own record, by the Supreme Court of Alabama stealing Asam's Answer so as to alter the record to justify deeming admitted alleged charges against Asam in order to affirm.

State has no qualified immunity for illegal act of alteration of official record on appeal of the Supreme Court of Alabama,and clearly violated due process of Dr. Asam under the 5th and 14th amendments to the U.S. Constitution thus triggering the 42 U.S.A. § 1983 civil rights claims. See Bator v. State of Hawaii, 30 F. 3d 1021, and Wicks v. Miss. State Employment Serv. 41 F. 3d 991 and held that to overcome qualified immunity defense, civil rights complaint must allege facts that, if proven would demostrate that individual defendant violated clearly, established statutory or constitutional rights. 42 U.S.C.A. § 1983. In the instant case actual facts proved on p. 13 of Opinion by Justice

Jones of the Supreme Court of Alabama and p. 1421 index of the record clearly showing R-1 was said Answer in the Supreme Court of Alabama that disappeared.

See Monell v. New York City Dept. of Soc. Serv. 436 U.S. 68, 56 L. Ed 2d 611, 98 S Ct 2018, which states, Civil rights § 12.5 -- liability for violations--
State law immunities 11a, 11b. State law immunities do not override a cause of action under 42 U.S.C. § 1983 which imposes civil liability on any person who deprives another of his federally protected rights." The U.S. Court of Appeals, 11th Circuit, failed to rule according to the law in Monell, supra.

See DeStafney v. University of Alabama 413 So. 2d 391 (Ala. 1981) at 396, which states,
"We find that no valid public policy will be served by immunizing from liability a public employee whose tortious conduct results in personal injury to another."

On violations of due process by defendants, especially the Supreme Court of Alabama, see Jones v. Alabama State Docks, 443 So. 2d 902 at 903(Ala. 1983)which states, "Due process clause of State Constitution secures every citizen against arbitrary action of those in authority and places him

or her within protection of law of the land. Const. § 13.

See Velger v. Cawley, 525 F. 2d 334 (2nd Cir. 1975) on due process.

Despite this lawsuit that pointed out this judicial scam in Amendment to the Complaint which had been served, the Supreme Court of Alabama wrote the order to have Dr. Asam actually disbarred as of March 28, 1996.

Dr. Asam had to write the Appellant brief and Reply brief without access to seeing the official record that went from the U.S. District Court, Northern District of Alabama to the U.S. Court of Appeals, 11th Circuit because of rotten politics of a federal judge not in the instant case blocking Dr. Asam in checking the record out or seeing the record, A VIOLATION OF DUE PROCESS AGAIN IN THIS CASE BY A FEDERAL COURT. [Case pending in the U.S. Court of Appeals, 11th Circuit as 96-7008].

Novak v. Cobb County-Kennedone Hospital Authority, 849 F. Supp. N.D. Ga. 1994, held state court judge is state actor for purposes of federal civil rights statute. 42 U.S.C.A. section 1983.

See Santiago v. Philadelphia, (1977, ED Pa) 435 F. Supp. 136."Conspiracy in context of 42 U.S.C.S. § 1985(3) means co-conspirators must have agreed, at least

tacitly, to commit acts which will deprive plaintiff of equal protection of law.

Dr. Asam was blocked from seeing the official record from the U.S. District Court, Northern District of Alabama which was precipitated by Judge James Hancock, who was not a judge in case 96-N-0589 W, ruling that Dr. Julia M.L. Asam was disbarred so that she could not look at or check out the record on appeal of Asam v. Owens et al. and a violation of her due process rights by the Court when she needed to see the record to write the Appellant brief. In fact the case is so political that the Appellant Brief did not arrive by Federal Express in the 96-7008 case concerning the irregularities of Judge Hancock and a duplicate brief had to be sent and Judge Hancock failed to respond, i.e. no Appellee brief was written.

After driving 800 miles Dr. Asam was in the clerk's office of the U.S. District Court, Northern District of Alabama, on July 31, 1996 attempting to check out the Asam v. Owens record to write the Appellant Brief. Mr. Harris, a deputy clerk, asked Dr. Asam to wait that the clerk would speak with her instead she later returned with the first order from Judge Hancock who maliciously and deliberately was preventing Dr. Asam from seeing and checking out the record of case

Asam v. Owens et al. CV 96-N-0589 W which is 96-6596 in the U.S. Court of Appeals, 11th Circuit.

Dr. Asam had an absolute right to see the record to her own case and Judge Hancock failed to ask Dr. Asam to be present in any hearing when she was in building and disbarred her for no valid reason since Dr. Asam had infromed the deputy clerk Ms. Harris, that the state disbarment was not final at that time. In fact, the state disbarment was not ruled on as a denial of rehearing by the Supreme Court of the United States until November 18, 1996, case no. 95-1895, Asam v. Alabama State Bar.

Norris said February 28,1995, stated in the Tuscaloosa News referring to Asam, "She is not disbarred until ... the appeal is finally decided." The judicial crime committed by the Supreme Court of Alabama, Department of the Judiciary, State of Alabama may be reviewed by the U.S. Congress since was precipitated by false and negative ads of her opponent in the Asam v. Harwood political campaign in 1992. John Owens used to belong to the firm of Phelps, Owens et al and made a $5000 contribution to the judgship campaign for Harwood. In 1992, Asam was the Democratic nominee and Harwood was the Republican Nominee. Dr. Asam was the first woman circuit judge candidate in Tuscaloosa Count in 1992,

and received over 15,000 votes. The fact Asam was a woman circuit judge candidate precipitated a number of male evil-minded lawyers who belonged to the "machine" to have Asam disbarred for running as a circuit judge candidate because she is a woman.

On August 5, 1996, Dr. Asam filed a "Motion for Honorable Court [U.S. Court of Appeals, 11th Circuit] to exercise Supervision" with copy also filed as a response to order dated July 31, 1996, by Judge Hancock in the U.S. District Court, Northern District of Alabama, and Judge Nelson denied said Motion. The U.S. Court of Appeals denied said motion and later judically changed a Notice of Appeal to a Motion for Reconsideration, which was not denied until after the writing of the Reply Brief, thus, sweeping under the rug the fact that Dr. Asam was not allowed access to the record of CV 96-N-0589 W because of Judge Hancock's order, dated July 31, 1996. Judge Hancock wrote a second order "Order of Disbarment" with a magazine article authored by someone from the Alabama State Bar who wrote a propagandized announcement to try to justify the criminal acts by the Alabama State Bar and Supreme Court of Alabama stealing files from the record to make it appear Dr. Asam was incompetent. Dr. Asam received no attorney fees for any of the cases that the Alabama State Bar tried to pretend Dr. Asam was incompetent and because

she was incompetent this was misconduct for disbarment from which Norris wrote his fabricated professional misconduct allegations, none of which Dr. Asam violated. In fact, Norris admitted in a letter before he wrote the alleged violations of misconduct rules that he, Norris, was going to reduce Asam to inactive disability status. Norris resigned from the Alabama State Bar shortly after Asam wrote her approximately 2-inch brief to the Supreme Court of Alabama [and the rumor is that Norris had 48 hours to pack up his desk].

It will be noted as a pattern of misconduct by the Alabama State Bar and other lawyers besides Norris who was not in the disbarment procedures of Asam wrote on June 14, 1996, a brief for another woman judge candidate [pattern of activity by Alabama State Bar attacking woman lawyers who have run as judge candidates] and Moss used the spelling of Asam's name with two ss indicating "ass"am. Asam wrote Mr. Moss a notice to sue if not corrected. On July 23, 1996, Mr. Moss had no intention of correcting his deliberate attempt to further defame Asam according to his letter. However, August 2, 1996, Mr. Moss made the correction from "Assam" to Asam in all four Asam's, but Moss failed to correct the false statement by him

about cancer and Asam. However, Dr. Asam, also a cancer scientist, has conducted cancer research for over 20 years and she has written books and medical scientific articles which were accepted into reputable medical journals.

Judge Harwood's lawyer, Richard Gill, actually went in person to the Alabama State Bar to have Dr. Asam disbarred in case 94-177 and Robert Norris never gave 94-177 to Asam to respond even after ordered to produce by Wanda Devereaux. In fact, 94-177 has never been seen by Asam and is a phantom charge which might have been in the record that Judge Hancock blocked Asam from seeing on July 31, 1996, that she needed to see said record CV 96-N -0589 W to write the Appellant brief and she had to write the briefs without the record.

The judicial crime to cover-up that Dr. Asam had written a 26-page Answer denying all charges with documents of proof, was stolen from record in case 1940912, Asam v. Alabama State Bar as shown in the opinion written by Justice Jones, and this judicial scam was the contents of the instant case CV 96 N 0589 W, Asam v. Owens et al. Justice Jones claimed he read the record and there was no answer [false since had been stolen from record in Supreme Court of Alabama but Asam had a duplicate record and filed a copy

of the said Answer [26 pages] in the record of CV 96-N 0589 W. Justice Jones cited law that the charges against Asam were deemed admitted since no Answer. See above in the Statement of Facts. Asam filed July 20, 1994, Answer [26 pages] which showed she was not mentally incompetent. Two of the cases were clearly political used by the Alabama State Bar to disbar Dr. Asam: Asam v. Harwood, and Asam v. Vreeland.

The MALIGNANT JUSTICE OF STATE AND FEDERAL COURTS SHOULD BE INVESTIGATED BY THE U.S. CONGRESS BECAUSE OF THE ENORMOUS AMOUNT OF MONEY FROM SPECIAL INTEREST GROUPS LAWYERS PAYING FOR THE CAMPAIGNS OF JUDGES WHO IGNORE THE LAW WHEN RECEIVING LARGE MONEY CONTRIBUTIONS. Asam campaigned to put the justice back into the justice system, and Asam inadvertently stepped on someone's ego belonging to the "machine" who ganged up as male lawyers with Norris from the Alabama State Bar to have Dr. Asam disbarred by the Alabama State Bar pretending Dr. Asam was mentally incompetent to assassinate her as a woman lawyer because she [Asam] ran as a woman circuit judge candidate in Tuscaloosa County in 1992 and 1994.

Dr. Asam should receive a pension from the Alabama State Bar for the wrongful disbarment that mushroomed into the Supreme Court of Alabama stealing their own files to try to protect the image of the Alabama State Bar.

See Federal statute 42 U.S.C. § 1983 quoted above.

See book Section 1983 Litigation, Claims, Defenses, Fees, M.A. Schwartz, John E. Kirklin, John Wiley & Sons, 1986, on p. 101, states, "§5.9 Tests to Determine State Action -- In General... The Court did state that to find state action, two general requirements must be fulfilled. First, "the deprivation must be caused by the exercise of some right or privilege created by the state or by a person for whom the state is responsible. [See Lugar v. Edmondson Oil Co., 457 U.S. 922, 937, (1982).] Second, the defendant "must fairly be said to be a state actor. [See Lugar case'] See Monroe v. Pape, 365 U.S. 167, 172 (1961) "The Two principles "collapse into each other when the claim of a constitutional deprivation is directed against a party whose official character is such as to lend the weight of the state to his decisions."

All defendants were state actors or acting as state actors such as John Owens as President of Alabama State Bar since Alabama State Bar is an arm of the Supreme Court of Alabama. See Worley v. Alabama State Bar, 572 So. 2d 1239, 1242 (Ala. 1990), and Alabama State Bar should be severed from the Supreme Court of Alabama to be held accountable for illegal criminal prosecution of lawyer Asan because of political motivation of Norris and his evil-minded male lawyer friends.

CONCLUSION

Judge Nelson made gross judicial error and reversible error as shown above when he failed to rule according to law in his granting of summary judgment which should be reversed and remanded.

The State of Alabama owes Dr. Asam a pension because of this judicial scam by the Supreme Court of Alabama showing Malignant Justice by stealing her Answer [26 pages] so that Justice Jones could "deem admitted" alleged fraudulent charges written by Robert Norris former general counsel of the Alabama State Bar.

The Federal court is concerned with constitutional violations and violations under 42 U.S.C. § 1983 by state actors named in CV 96(N) 589 W as defendants. The CV 96 (N) 589 W should go to trial or settle.

The bottom line is there is no res judicata as to all defendants in the instant case, and no collateral case had been completed related to the wrongful disbarment by the Alabama State Bar at the time of Judge Nelson making his ruling.

The enjoinment and restrains as to Asam filing further lawsuits should be rendered moot about wrongful disbarment since the federal court does not have jurisdiction over state issues not in its court.

There is no immunity as to any defendant/appellee.

The summary judgment should be reversed and the instant case remanded for trial by a jury of all triable issues.

MALIGNANT JUSTICE AND CONVOLUTED JUSTICE SHOULD NOT BE TOLERATED IN A DEMOCRATIC SOCIETY.

SELECTIVE JUSTICE WHETHER A MALE OR FEMALE OR ANY OTHER TYPE OF MINORITY should cease and SPECIAL INTEREST GROUPS should not be allowed to finance judge's political campaigns by giving such large amounts of money that the judge ignores the true facts in a case or surreptitiously has the evidence to evaporate as Justices of the Supreme Court of Alabama in Asam v. Alabama State Bar did and the illegal removal of Dr. Asam's Answer [26 pages] is the subject of instant case since the Supreme Court of Alabama abused their judicial power by "deeming admitted" alleged fabricated charges against Dr. Asam that she was mentallly incompetent [not declared mentally incompetent by M.D. psychiatrist] so as to affirm the Asam v. Alabama State Bar case 1940912 to protect image of the Alabama State Bar.

Julia Asam

7/9/97

Date

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APPENDIX A

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 96-6596

Non-Argument Calendar

D. C. Docket No. CV 95-N-589-N

Julia McCain Lampkin Asam, Ph.D.,J.D.

Plaintiff-Appellant,

versus

John A. Owens, individually & officially as President, Alabama State Bar, and Alabama State Bar, James Anthony McLain, individually and officially as General Counsel, Alabama State Bar, and Alabama State Bar, Wanda D. Devereaux, individually and officially as Chairman of Disciplinary Board, Panel II, Alabama State bar, and Disciplinary Board, Panel II, Hon. P. Hooper, Chief Justice, Supreme Court of Alabama, and Supreme Court of Alabama, and Hon. Richard Jones, retired justice, Supreme Court of Alabama, Jeff Sessions, Attorney General,State of Alabama and State of Alabama and Defendants 1-30.

Defendants-Appellees

Appeal from the United States District Court for the Northern Distirct of Alabama

(April 21, 1997)

Before Tjoflat, Edmondson and Cox, Circuit Judges.

Per Curiam

This is an appeal of the dismissal of Julia McCain Lampkin Asam's pro se civil rights action, 42 U.S.C. § 1983. [Appellant and Reply Brief of Appellant not read as to law involving exceptions when constitutional rights of Asam were violated] The issues involve these matters:

1. Res judicata; [No res judicata as to Supreme Court of Alabama stealing the Answer from this instant case to wrongfully deem admitted charges against Asam pretending Asam was mentally incompetent when she has never been mentally incompetent which is Malignant Justice].

2. Judicial immunity; [No immunity as stated in law when constitutional rights of Dr. Asam was violated].

3. Dismissal of remaining defendants;

4. Injunction: [District court did abuse discretion by enjoining Asam from exercising her constitutional rights to further file lawsuits when new evidence such as in the instant case concerning the Supreme Court of Alabama stealing [inside job since confidential official record] 26-page Answer and then Justice Jones writing in opinion that there was no answer when answer listed in index of record as R-1; then, deeming

charges against Asam as admitted to wrongfully disbar her because of political motivation from members of the "machine" that are also lawyers belonging to special groups.]

5. Discovery.

The district court correctly dismissed [false] the action based on res judicata, judicial immunity, and sovereign immunity. [No sovereign immunity when Supreme Court of Alabama attempts to cover-up by having records [Answer] stole from official record and then deeming admitted charges [fabricated] against Asam by Robert Norris and false charges adopted by Anthony McLain, General Counsel of Alabama State Bar.] The court did not abuse [false] its discretion about discovery. In addition, the district court did not abuse [false] its discretion by enjoining Asam from filing further frivolous lawsuits based on her disbarment. [Instant case not frivolous].

AFFIRMED.

Date April 21, 1997.

APPENDIX B

IN UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ALABAMA

WESTERN DIVISION

Julia McCain Lampkin Asam, Ph.D., J.D.

Plaintiff

vs.

John A. Owens, et al.

Defendants.

CV-96-N-0589-W

ORDER

In accord with the Memorandum of Opinion entered contemporaneously herewith, it is hereby ORDERED, ADJUDGED and DECREED:

1. The defendants' motion for summary judgment is GRANTED:

2. The defendants' motion to dismiss is GRANTED:

3. The action is DISMISSED with prejudice; and

4. The plaintiff is ENJOINED and RESTRAINED from filing any further lawsuits that could or should have been brought in this or any other action regarding her disbarment.

5. Costs are taxed against the plaintiff and in favor of the defendants.

Done, this 13th of May, 1996.

s/Edwin L. Nelson
United States District Judge

Entered May 14, 1996.

APPENDIX C

IN UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

Julia McCain Lampkin Asam,
Plaintiff

vs.

John A. Owens, et al.,
Defendants

CV-96-N-9589

MEMORANDUM OF OPINION

I. Introduction.

Julia McCain [Lampkin] Asam, a former attorney disbarred for mental incompetency, brings this civil rights action under 42 U.S.C. § 1983 against defendants John A. Owens, president of the Alabama State Bar, ("Owens"); James Anthony McLain, general counsel for the Bar, ("McLain"); Wanda Devereaux, chairman of the Disciplinary Board, Panel II ("Devereaux"); Honorable Perry Hooper, Chief Justice of the Alabama Supreme Court, ("Chief Justice Hooper"); Honorable Richard Jones, Retired Justice of the Alabama Supreme Court, ("Justice Jones"); the Alabama State Bar; the Disciplinary Board, Panel II; Jeff Sessions, Attorney General of the State of Alabama, (Sessions"); and the State of Alabama. Ms. Asam claims the defendants violated her due process rights under the Fifth and Fourteenth Amendments of the United States Constitution. A broad reading of the complaint suggests she also claims a conspiracy under 42 U.S.C. § 1985. In addition, she also challenges the constitutionality of the Alabama State Bar being an arm of the Alabama Supreme Court and finally, claims outrageous conduct on the part of the defendants.

The Court presently has for consideration the motion for summary judgment filed by defendants Owens, Devereaux, McLain, and the Alabama State Bar. The plaintiff has responded to the motion and it is now ripe for decision. The court also has for consideration the motion to dismiss and, alternatively, for summary judgment filed by defendants Chief Justice Hooper, the Supreme Court of Alabama, Justice Jones, Jeff Sessions, and the State of Alabama. The court construes this Motion as a motion to dismiss and treats it accordingly. For the following reasons both motions will be granted.

II. Motion for Summary Judgment.

"Federal courts apply the law of the state in which they sit with respect to the doctrine of res judicata." National Association for the Advancement of Colored People (NAACP) v. Hunt, 891, 891 F. 2d 1555, 1560 (11th Cir. 1990).

"Under Alabama law the elements of res judicata are: "(1) a prior judgment on the merits, [Judgment not on merits since there was a criminal act by Supreme Court of Alabama stealing the 26-page Answer from the official record so that Justice Jones wrongfully deemed the fabricated charges against Asam as admitted since Jones claimed there was no answer [false since

Answer was also listed in index as R-1 and Answer was in the duplicate record that Asam bought], (2) rendered by a court of competent jurisdiction, [With the Supreme Court of Alabama stealing its own records so that a false opinion could be written is not a competent jurisdiction as to the instant case, (3) with substantial identity of the parties, [Supreme Court of Alabama was a new party in instant case], and (4) with the same cause of action presented in both suits." [instant case first case to present new evidence of the stealing of files by an inside job at the Supreme Court of Alabama to alter an opinion so that the charges against Asam by the former general Counsel who fabricated the said charges under the disguise of Asam violating certain ethics which she didn't, Justice Jones claimed there was no answer [false since the Supreme Court of Alabama stole the 26-page answer denying all charges with documentary evidence] Hughes v. Allenstein, 514 So. 2d 1190, 1199 (Ala. 1978)... If all these elements are met [None of the elements were met in the instant case as to res judicata]. If all these elements are met, any claim that was or could have been adjudicated in the previous action is precluded. Id. Hunt, 891 at 1560.

Asam has filed numerous cases in both federal and state court regarding her dis-

barment and the events leading to that result.[1] The defendants have brought to the court's attention Asam v. Alabama State Bar, an action filed by the plaintiff in the United States District Court for the Middle District of Alabama, attached here as Appendix "A". [not same as the instant case whereby Supreme Court of Alabama stole the official Answer to alter the final opinion]. In that case, Asam sued the Alabama State Bar; three State Bar presidents, James R. Seale, John A. Owens, and

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[1]The following is a list of lawsuits Ms. Asam has filed on behalf of herself since 1987. The list was taken from the opinion entered in Asam v. Ryan, attached hereto as Appendix "D". Asam v. Vreeland, 51 F. ed 1051 (11th Cir. 1995); Asam v. Harwood, 19F. 3d 36 (11th Cir.) cert. denied, 115 S. Ct 93 (1994); Asam v. City of Tuscaloosa, [zoning] 907 F. 3d 1143 (11th Cir. 1990); Asam v. Shapiro, 658 F. 2d 744 (11th Cir. 1988), cert denied, 488 U.S. 1024, reh'g denied, 489 U.S. 1073 (1989) Asam v. Lee County, 818 F. F. 2d 686 (11th Cir., cert denied, 484 U.S. 951 (1987); Asam v. Alabama State Bar, No. T 859 N (M.D. Ala. Feb. 3, 1995); Asam v. Vreeland 649 So. 2d 165 (Ala. Civ. App. 1994); Asam v. Harwood, 639 So. 2d 900

Bronx Holmes; general counsel for the Bar Robert W. Norris; [now resigned after he made fabricated charges against Asam]; Secretary of the Bar, Reginald Hamner; a circuit judge; and three Alabama attorneys for alleged violations of her rights under 42 U.S.C. § 1985, and the First, Fifth, and Fourteenth Amendments to the United States Constitution. Specifically, she claimed the bar, without probable cause, brought charges of incompetency against her at the urging of male bar members who sought to prevent her from running for public office. [true]. She also complained that the process was tainted because she was not given the original copies of the complaints against her. [true and when Norris finally had to produce the original complaints not related to charges that Norris had fabricated but was not in the case that Judge Nelson was relating to but after the

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(Ala. 1993), cert. denied, 114 S Ct 1664 (1994); Asam [Joseph Asam , not Julia Asam]v. Sexton, 629 So. 2d 814 (Ala. 1993); Asam v. City of Tuscaloosa [Zoning] 599 So. 2d 1192 (Ala. Civ. App. 1991) cert. denied, 113 S. Ct. 464 (1993); Asam v. City of Tuscaloosa, 585 So. 2d 60 (Ala. Civ. App. 1991), cert. denied, 502 U.S. 1033 (1993). [Zoning].

said case was over in the U.S. Middle District]. On February 3, 1995, U.S. District Judge Myron Thompson granted motions to dismiss and motions for summary judgment on all federal claims, with prejudice, and on the state claims without prejudice, the court declining to exercise supplemental jurisdiction. (Appendix "A") On March 1, 1995, he entered an order reaffirming his decision. (Order, attached hereto as Appendix "B") On appeal, in a per curiam opinion, the Eleventh Circuit affirmed Judge Thompson's judgment. (Opinion, attached hereto as Appendix "C."). [Point is no res judicata since Supreme Court of Alabama had not yet stole the 26-page Answer from its own official record in the Supreme Court of Alabama and therefore, no res judicata].

Clearly, the grant of summary judgment entered by Judge Thompson and affirmed by the Eleventh Circuit is a final adjudication on the merits for res judicata purposes. [False, see above].Hunt, 891 F. 2d at 1560 ("dismissal with prejudice operates as a judgment on the merits unless the court specifies otherwise.") Furthermore, the judgment was rendered by a court of competent jurisdiction. Thus the first two elements of res judicata are met. [False not in the instant case, see above].

Identity of parties concerns two sets of persons: (1) those persons who were actual parties to the original action, and (2) those persons to whom are or were in privity with the parties of the original suit. "Privity is defined as a relationship between one who is a party of record and a nonparty that is sufficiently close so a judgment for or against the party should bind or protect the nonparty." Hunt, 891 F. 2d at 1560 (internal citations omitted). "Privity exists where the nonparty's interests were represented adequately by the party in the original suit." Id. It also exists where a party to the original suit is "so closely aligned to a nonparty's interest as to be his virtual representative." Id. at 1560-61 citing United Merchants & Mfrs. v. Sanders, 508 So. 2d 689,692 (Ala. 1987). Whether suffient privity exists to warrant the appplication of res judicata is a question of law. Id. at 1561.

Defendants Owens and the Alabama State Bar were actual parties in the original action. [Note it was the Supreme Court of Alabama that stole the 26-page Answer from their own confidential file which was the appeal from Owens and Alabama State Bar and therefore, the case was not decided on its

merits since Justice Jones was claiming no Answer when in reality if he read the index would have seen Answer was R-1, and Justice Jones was wrongfully deeming the fabricated charges against Dr. Asam by Norris as admitted to alter the opinion because of the criminal act of the Supreme Court of Alabama stealing the Answer which denied all charges against Asam]; therefore, in the case of Owens and Alabama State Bar the issue of privity was moot since the case was not decided on merits but an attempt to cover-up.] Furthermore, the court finds privity between McLain and Robert W. Norris, because Norris, who was sued in the original action, is virtual representative of his successor, McLain, the present general counsel for the bar. [Ridiculous since McLain was adopting the fabricated alleged charges by Norris]. There is also privity between the Alabama State Bar and the Disciplinary Board, Panel II, because as a subsection of the bar, their interests are so closely aligned that the Board was represented adequately by the Bar in the original action. [Privity is moot since Alabama State Bar and Board issues on appeal were not decided by merits]. Lastly, in the previous action the court dismissed the bar officers based on absolute and qualified immunity, [an exception to

immunity is violation of the constitutional rights which happened in the instant case and there is no immunity], a defense equally applicable to Devereaux. [There is no immunity as to Devereaux for the violation of the constitutional rights of Dr. Asam by pretending Dr. Asam was mentally incompetent without having a M.D. medical experts to examine Dr. Asam and Ms. Devereaux failed to provide a guardian ad litem according to Alabama State Bar own policy]. Because her interests were adequately represented in the original action, [false, judge failed to read case as to violation of constitutional rights of Dr. Asam concerning the Supreme Court of Alabama stealing their own files from the official confidental records and then using this criminal act to alter the opinion by Justice Jones deeming the charges admitted because Justice Jones claimed no answer when in reality the 26-page answer was R-1 according to index of record. Also, Asam had the duplicate Answer when she bought record].the court finds privity between Devereaux and the bar officers sued in the original action. [Moot issue on privity in instant case and profound judicial error by Judge Nelson; furthermore, Judge Nelson failed to state what privity the Supreme Court of Alabama and Chief Justice Hooper

had in the instant case since it is illegal act of the Supreme Court of Alabama stealing their own files to alter the opinion to make it appear that Dr. Asam was guilty of alleged charges when in reality Dr. Asam has never been mentally incompetent.] See Hunt, 891 F. 2d 1561. Therefore, as to these defendants the identity element is satisfied. [false].

The final element is that the same cause of action must be present in both cases. As previously stated, in the original suit the plaintiff brought claims for alleged violations of her rights under 42 U.S.C. § 1985, and the First, Fifth and Fourteenth Amendments enforced by 42 U.S.C. § 1983. All claims arose out of her disbarment. [False, because interventing criminal act by the Supreme Court of Alabama stealing the Answer [26 pages[to alter the opinion to pretend Dr. Asam was deemed admitted as to charges against her-- these facts Judge Nelson ignored]. In this action, the plaintiff makes the same claims, [false because the instant case was filed because the Supreme Court of Alabama stole the 26-page Answer from the original record,] all of which arise out of the same set of facts. [False as stated above; see the criminal act of the Supreme Court of Alabama]. Therefore, all four elements are

satisfied. [false] and the res judicata considerations require the dismissal of the claims against defendants [false] Owens, McLain, Devereaux.

The Alabama State Bar and the Disciplinary Board, Panel II. [Note, Judge Nelson failed to respond to the party Supreme Court of Alabama, Chief Justice Hooper]. Accordingly, the motion for summary judgment will be granted. [Profound judicial error as to the elements of summary judgment failed as a matter of law, see above and Appellant and Reply brief for law].

III. Motion to Dismiss.

The motion for summary judgment, treated as a motion to dismiss, filed by the remaining defendants, Chief Justice Hooper, Justice Jones, Jeff Sessions and the State of Alabama, is also due to be granted. [Judge Nelson failed to state what grounds he had to change a motion for summary judgment to a Motion to dimiss and the original motion for summary judgment fails as a matter of law concerning the exceptions to immunity when constitutional violations exists as in the instant case if Judge Nelson had read the original complaint and amendment] A thorough reading of the complaint and the amendment thereto, shows that the plaintiff has failed to

state a claim against defendant Sessions. In fact, she did nothing more than name him as a party and state his official position and county of residence. [Sessions was sued since had to sue the State of Alabama]. Accordingly, Jeff Sessions is due to be dismissed as a defendant in this action. [Judicial error since Supreme Court of Alabama was sued which is the Department of the Judiciary of the State of Alabama and in the instant case Judge Nelson has ignored the criminal act that the Supreme Court of Alabama was altering the record by stealing their own record, Answer -26 pages from the instant case to cover-up for deeming the charges against Dr. Asam as admitted,to alter the court's opinion so that Dr. Asam was falsely labeled as mentally incompetent when she has never been mentally incompetent just because of political motivation since she was the first woman circuit judge candidate in the Tuscaloosa County in 1992].

Chief Justice Hooper and Justice Jones are also due to be dismissed under doctrine of judicial immunity. [False, since an exception of violation of Dr. Asam's constitutional rights when intervening criminal act of the Supreme Court of Alabama stealing own court file, 26-page answer, so that Justice Jones claims no answer and deems that the alleged charges

against Dr. Asam that she is mentally incompetent were deemed admitted]. The plaintiff alleges that Chief Justice Hooper violated her due process rights by failing to supervise the Justices of the Supreme Court. She further claims he is vicariously liable for the court's "gross error" in failing to grant motions and oral argument, and affirming her disbarment without opinion and subsequently writing a "transparent" opinion. [Transparent since Supreme Court of Alabama was attempting to cover-up by stealing their own record, 26-page Answer, to have Justice Jones claim there was no answer [in reality there was an answer that was stolen as an inside job by the Supreme Corut of Alabama] and wrongfully deeming the alleged charges against Dr. Asam as admitted when she admitted to nothing.] She claims that Justice Jones violated her due process rights by writing the "transparent" opinion. [True as stated above about the Supreme Court of Alabama stealing own records in instant case]. Clearly, with regard to the plaintiff's allegations, both Chief Justice Hooper and Justice Jones were acting within their judicial capacity. [False, abuse of judicial power] as stated above]. See Dykes v. Hosemann, 776 F. 2d 942, 945 (11th Cir. 1985). Furthermore, as Justices of the Supreme Court of Alabama,

the court designated to review decisions of the Alabama State Bar regarding attorney disbarment, they acted with proper jurisdiction. Id. [Acting with proper jurisdiction does not give license to steal records from their own official record so that an opinion can be altered]. Accordingly, Chief Justice Hooper and Justice Jones enjoy absolute judicial immunity [false in instant case] in this case and are due to be dismissed. Id. [profound judicial error].

Lastly, the Alabama Supreme Court is due to be dismissed because it is not a separable legal entity subject to suit. [Alabama Supreme Court is not immuned to suit when steal their own records to alter an opinion]. Alternatively, if the Alabama Supreme Court is subject to suit, it is due to be dismissed on Eleventh Amendment immunity grounds. [False, in the instant case because the Supreme Court of Alabama violated the constitutional rights of Dr. Asam because the court was altering records to make an opinion that was altered to make it appear that Dr. Asam was mentally incompetent when the Alabama State Bar never had a M.D. medical expert to declare Dr. Asam as "nuts".The Eleventh Amendment prohibits suits by private parties "seeking to impose a liability which must be paid from public funds in the state treasury."

[Moot as to instant case, since Asam did not impose a liability, but the Supreme Court of Alabama stole her 26-page answer from their own record to alter the opinion to falsely claim Dr. Asam was mentally incompetent]. Edleman v. Jordan, 415 U.S. 651, 663 (1974). "This rule applies whether the action is instituted against a state, a state agency or instrumentality, or a state official." Harden v. Adams, 760 F. 2d 1158, 1163 (11th Cir. 1985). Injunctive relief against a state or its instrumentality is also barred by the Eleventh Amendment. Id. citying Alabama v. Pugh, 438 U.S. 781 (1977). Whether an entity sued is a state agency or instrumentality is generally determined by reference to state law. Id. citing Mt. Health Board of Education v. Doyle, 429 U.S. 274 (1977). It is clear under Alabama law that the Supreme Court of Alabama is an agency or instrumentality of the state. Ala. Code § 12-1-2(1995). [Note of the law cited above on eleventh amendment applies in instant case since Dr. Asam's constitutional rights under the 5th and 14th amendments to U.S. Constitution were violated as seen in Appellant Brief, Reply Brief, Complaint and the
Amendment to Complaint which apparently was not read by Judge Nelson]. Thus, the Alabama Supreme Court is entitled to

sovereign immunity [false as stated above] under the Eleventh Amendment and is due to be dismissed.

IV. Injunctive Relief.

In their brief in support of their motion for summary judgment, defendants Owens, Devereaux, McLain and the Alabama State Bar request that the court permanently enjoin Ms. Asam from filing further frivolous litigation in this matter. [Case was not frivolous]. As illustrated in footnote 1 of this opinion, Ms. Asam is no stranger to the court system. [Dr. Asam is a lawyer.] In fact, she has filed well over a dozen lawsuits regarding her disbarment and the events leading to that result. See Asam v. Ryan, at p. 10, attached hereto as Appendix "D". [Judge Ryan charged Dr. Asam for contempt of court when the Judge had the notice of hearing sent to the wrong city as shown on his final order, and clearly this was an abuse of the judicial system]. Such action is an abuse of the court system [false, since the judicial system has shown nothing but malignant justice to Dr. Asam as clearly shown in the instant case], which wastes untold time and resources to dispose of her meritless claims. [false no meritless claims only the truth was presented by Dr. Asam]. Therefore, Ms. Asam is hereby enjoined and restrained from

filing any further lawsuits [violation of Dr. Asam's constitutional rights], which could or should have been brought in this or any other action regarding her disbarment.

V. Conclusion.

For the foregoing reasons, the motion for summary judgment and the motion to dismiss will be granted and the action will be dismissed with prejudiced. In addition, Ms. Asam is hereby enjoined and restrained from filing any further lawsuits that could or should have been brought in this or any other action regarding her disbarment. Costs will be taxed against the plaintiff and in favor of the defendants. A separate order will be entered.

Done the 13th of May 1996.

s /Edwin L. Nelson

United States District Judge

APPENDIX D

IN THE U.S. DISTRICT COURT FOR THE
NOTHERN DISTRICT OF ALABAMA

Julia McCain Lampkin Asam, Ph.D.,J.D.
Plaintiff

v. John A. Owens, et al.
Defendants

Filed May 24, 1996

Denied May 28, 1996

MOTION to Alter, Amend, or Vacate the Judgment since this Honorable Court has failed to rule according to the Elements of Summary Judgment and failed to rule as a matter according to the actual facts and disputed facts presented in two documents ordered by this honorable court (1) Filed April 13, 1996, on res judicata and (2) Court ordered Memorandum.

s/ Edwin Nelson
United States District Judge

Denied Motion entered May 28, 1996.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A TRUE AND ACCURATE COPY OF THE ABOVE WRIT OF CERTIORARI was sent to Mr. Anthony McLain, General Counsel,Alabama State Bar, P.O. Box 671, Montgomery, Alabama 36101 and Mr. Jeffery Long, Assist. Attorney General, State of Alabama, 11 S. Union St., Montgomery, Alabama, 36130 this 9 day of July 1997.

Julia Asam

_____

AFFIDAVIT

STATE OF Florida

COUNTY OF Lee

I, Joseph Asam, Jr., do personally know that I drove to Montgomery, Alabama on July 20, 1994, to personally deliver the Answer [26 pages] by my wife, Dr. Julia Asam, to the Alabama State Bar and had my copy also hand-stamped by the Alabama State bar, and this Answer was timely filed and is the Answer that was stolen by the Supreme Court of Alabama [inside job] since Justice Jones on p. 13 of his Opinion claimed he read the record and there was no answer and "deemed admitted" the alleged charges by Robert Norris of the Alabama State Bar to justify his affirming Asam v. Alabama State Bar case 1940912.

I do personally know that I saw this same Answer (26 pages] again at the Disciplinary Board hearing January 23,24, 1995, since I was also present at the hearing. I did persnally note that the Answer [26 pages[was given the Exhibit number of R-1 and the attachments were given the number of R-2.

After Justice Jones of the Supreme Court of Alabama wrote his opinion in February 1996, I went in person to the Clerk's office of the Supreme Court of Alabama and obtained a copy of the index of the record of case 1940912, Asam v. Alabama State Bar, p. 1421, which clearly showed that the said Answer by Dr. Asam was number R-1; therefore, Justice Jones had constructive notice that Exhibit R-1 was the said answer and was in official record of Supreme Court of Alabama and had been stolen since Justice Jones claimed he read record and no answer. Duplicate original Answer was filed in the instant case from the files of my wife and is the one I also had hand stamped on July 20, 1994, as the said Answer to the 5 complaints fabricated by Norris.

I worked for a number of years in my wife, Dr. Asam's law office, and I was experienced in delivering papers and having papers date stamped.

Therefore, I do personally know that the original date stamped Answer, dated July 20, 1994, was stolen from the official record of the case Asam v. Alabama State Bar [1940912], which is the subject content of case 96-6596 [CV 96-N-059W], now before the Supreme Court of the United States as Writ of Certiorari.

July 7 1997
Date

Joseph Asam, Jr.

Al DL 3010826

Sworn and subscirbed before me this 7th day of July 1997.

M. ADA SPEARS
MY COMMISSION # CC 534033
EXPIRES: March 11, 2000
Bonded Thru Notary Public Underwriters

M. Ada Spears
M. Ada Spears
Notary

My Commission Expires: 3-11-2000

	5-J	11th Cir. Ct. of Appeals decision of affirmation	145	145
	5-K	Petition for cert. to U.S. Sup. Ct.	145	145
	5-L	Denial of pet. for cert.	145	145
	6-A	Document showing service on Asam re: disciplinary hearing	31	35

RESPONDENT'S EXHIBITS

	R-1	Asam's answer to summons and five complaints	145	145
	R-2	Collective packet of Asam exhibits in response to charges	146	146
	R-3	Asam's response to order of witnesses and exhibits	148	148
	R-4	Asam's motion objecting to order filed 2/13/95	148	148
	R-5	Asam's request for recusal of Robert Norris from proceedings	148	148
	R-6	Asam's motion to dismiss ASB 92-254	148	148
	R-7	Asam's request for recusal of Wanda Devereaux as Chairman of Alabama State Bar Discplinary Panel	148	148
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Ex Ap. 1

AFFIDAVIT

FILED IN OFFICE
JUL 20 1994
REGINALD T. HAMNER, SECRETARY
ALABAMA STATE BAR

STATE OF ALABAMA
COUNTY OF TUSCALOOSA

BEFORE THE DISCIPLINARY BOARD

OF THE ALABAMA STATE BAR

IN THE MATTER OF

JULIA McCAIN LAMPKIN ASAM

AN ATTORNEY AT LAW

OF THE STATE OF ALABAMA

Cases Nos.:ASB Nos. 92-254, 94-177, 93-476, 93-378, 93-379, 93-488, 94-176, and 94-175.

ANSWER TO SUMMONS AND FIVE (5) COMPLAINTS

The respondent, lawyer, Julia McCain Lampkin Asam, Ph.D.,J.D., denies each alleged violation of Code of Professional Responsibility as stated in each of the five (5) Complaints trumped-up by the Alabama State Bar based on no probable cause and false statements from two political cases [Asam v. Harwood, and Asam v. Vreeland], opposing attorneys including Mr. David Ellis and some unknown person or persons stirring up clients of Dr. Asam based on the false statements of Mr. Ellis in the newspaper and taken down by the court reporter.

EXHIBIT
R-1

By Julia McCain Lampkin Asam, Ph.D.,J.D.
Attorney At Law
P.O. Box 591
Northport, Alabama 35476

Ex B

on June 23, 1994. The five summonses and complaints were received by the Tuscaloosa County Sheriff's Department on June 24, 1994, and were served on June 26, 1994.

Rule 12(e)(1), Ala. R. Disc. P., gives the respondent lawyer 28 days after service of the complaints to file an answer with the general counsel and the Disciplinary Board. Rule 12(e)(1) goes on to provide:

> "If the respondent fails to answer, the charges shall be deemed admitted; provided, however, that if such failure to file was attributable to mistake, inadvertence, surprise, or excusable neglect, a respondent who fails to answer within the time provided may obtain permission of the Chairman to file an answer."

The record reveals that Asam did not file an answer during the 28-day period following June 26, 1994, and did not request permission of the chairman to file an out-of-time answer. Asam does not contend that an answer or response was filed in regard to any of the five complaints.

Pursuant to Rule 12(e)(3), Ala. R. Disc. P., and Rule 5, Ala. R. Civ. P., the first notices of the formal hearing on the five complaints, set for February 23, 1995, were mailed by the Bar to Asam at her home address and at her office address -- both by regular first class mail and by certified mail -- on January 20, 1995. The regular mail was not returned; however, the certified mail was returned from both addresses, on February 8 and February 24, as "unclaimed." On February 7, notice was sent by Airborne Express; it was delivered to Asam's residence on February 8, 1995. Additionally, the State Bar hired a process server who, after

Ex D